

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

| | | |
|---|--|---|
| PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) | | Docket Number (Optional) 20794/0205568-US0 |
| <p>First named inventor: Guenter Esch</p> <p>Application No: 09/582,307-Conf. #3612 Art Unit: 3746</p> <p>Filed: June 22, 2000 Examiner: Charles G. Freay</p> <p>Title: VACUUM CLEANER FAN</p> | | |
| <p>Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 FAX (571) 273-8300</p> | | |
| <p>NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.</p> | | |
| <p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.</p> | | |
| <p>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION</p> | | |
| <p>NOTE: A grantable petition requires the following items:</p> | | |
| <p>(1) Petition fee; (2) Reply and/or issue fee; (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications; and (4) Statement that the entire delay was unintentional.</p> | | |
| <p>1. Petition fee</p> | | |
| <p><input type="checkbox"/> Small entity – fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.</p> | | |
| <p><input checked="" type="checkbox"/> Other than small entity – fee \$ <u>1,540.00</u> (37 CFR 1.17(m))</p> | | |
| <p>2. Reply and/or fee</p> | | |
| <p>A. The reply and/or fee to the above-noted Office action in the form of <u>Amendment/Response to 05/24/01 Non-Final Office Action</u> (identify type of reply):</p> | | |
| <p><input type="checkbox"/> has been filed previously on _____.</p> | | |
| <p><input checked="" type="checkbox"/> is enclosed herewith.</p> | | |
| <p>B. The issue fee and publication fee (if applicable) of \$ _____.</p> | | |
| <p><input type="checkbox"/> has been paid previously on _____.</p> | | |
| <p><input type="checkbox"/> is enclosed herewith.</p> | | |

3. Terminal disclaimer with disclaimer fee

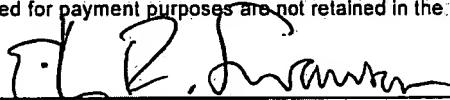
Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature

April 15, 2008

Date

 Erik R. Swanson
 Typed or printed name

40,833

Registration Number, if applicable

 DARBY & DARBY P.C.
 P.O. Box 770
 Church Street Station
 New York, New York 10008-0770
 Address

(212) 527-7700

Telephone Number

Enclosures: Fee Payment Reply Terminal Disclaimer Form Additional sheets containing statements establishing unintentional delay Other: Information Disclosure Statement

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Guenter ESCH et al.

Art Unit: 3746

Application No.: 09/582,307

Confirmation No.: 3612

Filed: June 22, 2000

Examiner: Charles G. Freay

For: VACUUM CLEANER FAN

**STATEMENT IN SUPPORT OF PETITION FOR REVIVAL OF AN APPLICATION
FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(B)**

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

April 15, 2008

Dear Sir:

This is a petition for revival of the above-identified application. This application became abandoned for failure to file a timely reply to an Office Action dated May 24, 2001. Applicants only became aware that the present application became abandoned when Applicants' current representative took over the prosecution of the above referenced application. After becoming aware of the abandonment of the application, Applicants' current representative filed a "Change in Power of Attorney" in the Patent Office on October 18, 2006. A "Change in the Power" did not occur in the Patent Office until January 8, 2008. Applicants' current representative mailed Applicants' previous representative a letter (Exhibit A attached hereto) requesting an explanation as to why the above referenced application became abandoned. Applicants' previous representative has not responded to the letter. Thus, Applicants were unaware that the above

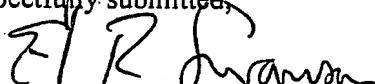
application had become abandoned and upon discovery of the abandonment have promptly taken steps to revive the application through Applicants' current representative.

Accordingly, Applicants hereby petition to revive this application. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

The fee required under 37 C.F.R. §1.17(m) of \$770 (small entity) is submitted herewith. It is believed that no additional fees are required for this petition or the accompanying response. However, should additional fees be necessary in connection with the filing of this petition or the accompanying response, or if a petition for extension of time is required for timely acceptance of the same, the Commissioner is hereby authorized and requested to charge Deposit Account No. 04-0100 for any such fees, and applicants hereby petition for any needed extension of time.

Dated: April 15, 2008

Respectfully submitted,

By 
Erik R. Swanson
Registration No.: 40,833

DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(212) 527-7700
(212) 527-7701 (Fax)
Attorney for Applicant

Exhibit A

INTELLECTUAL PROPERTY LAW

FRANKFURT
LIEBIGSTRASSE 51
60323 FRANKFURT AM MAIN
GERMANY
TEL +49 (0)69 713 7798-0
FAX +49 (0)69 713 7798-29
www.darbylaw.com

March 14, 2008

ERIK R. SWANSON
PRINCIPAL
(0)69 713 7798-0
eswanson@darbylaw.com

NEW YORK
SEATTLE
WASHINGTON, D.C.
SAN JOSE
PALM BEACH GARDENS
FRANKFURT

Karl Hormann, Esq.
Law Offices of Karl Hormann
86 Sparks Street
Cambridge MA 02138-2216
USA

Your Reference: 000393
Miele Reference: USA 98043 Ba/pe
Darby Reference: 20794/0205568-US0

Re: Abandonment of U.S. Patent Application 09/582,307, filed June 22, 2000

Dear Mr. Hormann:

The above-referenced application became abandoned on September 26, 2002.

As your office was responsible for prosecution of the application when the reply necessary to avoid abandonment was due, we are writing to ask you to provide a statement explaining why action was not timely taken to prevent the application from becoming abandoned. We ask that your statement explain why this application became abandoned while it was under your control and what efforts you made to reply to the outstanding office action. We ask that your statement include at least the following to the extent applicable:

- (1) evidence concerning the procedures in place that should have avoided the error resulting in the delay;
- (2) evidence concerning the training and experience of the person(s) responsible for the error; and

DARBY &
DARBY

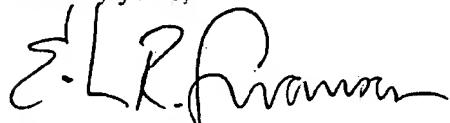
Karl Hormann, Esq.
March 14, 2008
Page 2

(3) copies of any applicable docketing records to show that the error was in fact the cause of the delay.

We ask that you include copies of any correspondence relating to the filing (or failure to file) of a reply to the outstanding office action from you or other persons involved with this application at the time of the abandonment. To the extent there are other persons having first hand knowledge of the circumstances surrounding the lack of a reply to the outstanding office action, we ask that you provide statements from those persons.

Please do not hesitate to contact me if you have any questions about this matter. We ask that you provide your statement(s) within one month of the date of this letter, i.e., by April 13, 2008.

Sincerely yours,



Erik R. Swanson

ERS:mmo

cc: Miele & Cie. KG

HP Officejet 7310
Personal Printer/Fax/Copier/Scanner

Log for
Darby & Darby Frankfurt
+49 69 713 7798-29
Mar 14 2008 5:30PM

Last Transaction

| <u>Date</u> | <u>Time</u> | <u>Type</u> | <u>Identification</u> | <u>Duration</u> | <u>Pages</u> | <u>Result</u> |
|-------------|-------------|-------------|-----------------------|-----------------|--------------|---------------|
| Mar 14 | 5:29PM | Fax Sent | 00016174918877 | 0:57 | 2 | OK |